

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-8 are pending in this case.

In the outstanding Office Action, Claim 6 was rejected under 35 U.S.C. § 103(a) as unpatentable over Winther, et al. (U.S. Pub. No. 2002/0141382, herein "Winther"); Claims 1, 3-5, 7, and 8 were rejected under 35 U.S.C. § 103(a) as unpatentable over Winther in view of Beshai, et al. (U.S. Pub. No. 2002/0131363, herein "Beshai"); and Claim 2 was rejected under 35 U.S.C. § 103(a) as unpatentable over Winther in view of Beshai, further in view of Colley, et al. (U.S. Patent No. 6,650,644, herein "Colley").

Applicants respectfully traverse the rejections of the pending claims.

The outstanding Office Action asserts the precedence field 138 of Winther as teaching "first bits for implementing bandwidth control," as recited by Claim 6, and asserts the TOS field 140 of Winther as teaching "second bits that indicate a path for routing," as recited by Claim 6.

However, Claim 6 defines second bits "that indicate a path for routing the IP packet to a destination router." As the outstanding Office Action itself states, at page 4, RFC 1349 - Type of Service in the Internet Protocol Suite specifies, at section 7.2, "A router in the Internet **should be able to consider the value of the TOS field when choosing an appropriate path** over which to forward an IP packet." Emphasis added. Clearly, the TOS field 140 of Winther, a value **considered in selecting a path**, cannot reasonably be interpreted to "**indicate a path** for routing," as recited by Claim 6. As depicted at paragraph [0064] of Winther, at the TOS BIT TABLE, the TOS field 140 values indicate a service priority, such as "minimize monetary cost," which is considered in selecting a path for

routing. However, the TOS value 140 of Winther, itself, does not “indicate a path for routing,” as recited by Claim 6.

Because Winther fails to teach or suggest at least the above-discussed features of Claim 6, Applicants respectfully request that the rejection of Claim 6 under 35 U.S.C. § 103(a) be withdrawn.

Claims 1 and 5, though differing in scope and statutory class from Claim 6, patentably define over Winther for similar reasons as Claim 6.

Further, Beshai, which is additionally asserted against Claims 1 and 5, fails to cure the above-discussed deficiencies of Winther with regard to Claims 1, 5, and 6 and is not asserted to teach the features of Claims 1, 5, and 6 that are discussed as deficient in Winther.

Claims 2-4 depend from Claim 1, and Claims 7 and 8 depend from Claim 6. Thus, Claims 2-4, 7, and 8 patentably define over Winther and Beshai for at least the same reasons as Claims 1, 5, and 6. Colley, which is additionally asserted against Claim 2, also fails to cure the deficiencies discussed for Winther and Beshai with regard to Claim 1 and is not asserted for the features discussed as deficient in Winther and Beshai.

Further, Claims 2-4, 7, and 8 define additional features that are also not taught or suggested by the asserted combination of references.

For example, Claim 3 recites a database unit that “stores, in accordance with a type of the IP packet, a relationship between said router-control class and said routing class.” The outstanding Office Action asserts, at page 5, that Winther teaches the above-quoted features of Claim 3 at paragraph [0065]. However, Winther does not teach or suggest a relationship between precedence bits 138 and the TOS field 140 in accordance with a type of the IP packet at paragraph [0065] or elsewhere. In fact, Winther does not describe different types of IP packets or different types of IP packets additionally affecting routing at all. At paragraph [0068], Winther describes a typical scenario in which a received IP data packet 122 is

transmitted by considering transmission priority set in the precedence field 138 and preferred type of service set in the TOS field 140. The type of the IP data packet 122 is not considered in Winther, at all, to determine a relationship between the precedence field 138 and the TOS field 140.

Claim 4 recites “a traffic-monitoring unit” and a “corresponding-relationship updating unit configured to change the relationship...between said router-control class and said routing class, based on said monitored traffic condition.”

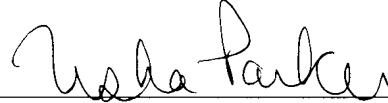
The outstanding Office Action asserts, at pages 6 and 7, that the asserted database unit of Wither can be modified by Beshai to update the relationship based on monitored traffic condition. However, the relationship of Winther cannot be updated based on Beshai, even if, *arguendo*, Besahi teaches a traffic-monitoring unit as defined by Claim 4, because, as discussed with regard to Claim 3, Winther fails to teach or suggest storing, “in accordance with a type of the IP packet, a relationship between said router-control class and said routing class,” at all.

Thus, Applicants respectfully request that the rejections under 35 U.S.C. § 103(a) of Claims 2-4, 7, and 8 be withdrawn.

Accordingly, the outstanding rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

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